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PATENT  
Atty. Dkt. No.: 7994.0011-00  
Client Ref. No.: ABC/NJW/19469

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

John David PORTER et al.

Serial No.: 09/592,683

Filed: June 12, 2000

For: CONTROL SIGNALLING AND  
DYNAMIC CHANNEL  
ALLOCATION IN A WIRELESS  
NETWORK

)  
)  
)  
) Group Art Unit: 2739  
)  
) Examiner: Unassigned  
)  
)

Attention: **BOX MISSING PARTS**  
Assistant Commissioner for Patents  
Washington, DC 20231

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on October 10, 2000.

Signed:

*Linda Phillips*  
Linda Phillips

12/07/2000 L6IBBS

00000003 060916 09592683

01 FC:105

130.00 CH

Sir:

**RESPONSE TO NOTICE TO FILE MISSING PARTS OF  
APPLICATION AND PETITION UNDER 37 C.F.R. § 1.47(a) TO  
FILE DECLARATION AND ASSIGNMENT WITHOUT  
EXECUTION BY A JOINT INVENTOR**

In response to the communication of August 8, 2000, Applicants submit a Declaration/Power of Attorney for filing in the above-identified application, authorization to charge the required fee of \$130.00, and a copy of the Notice of Missing Parts. Applicants submit this response on October 10, 2000 (a Tuesday) following October 9, 2000 (a U.S. holiday). Please associate the enclosed papers with the above-identified application.

LAW OFFICES

FINNEGAN, HENDERSON,  
FARABOW, GARRETT  
& DUNNER, L.L.P.  
STANFORD RESEARCH PARK  
700 HANSEN WAY  
PALO ALTO, CALIF. 94304  
650-849-6600

Adaptive Broadband, Ltd., the assignee of the present invention, through the undersigned, hereby petitions the Commissioner of Patents and Trademarks under 37 C.F.R. § 1.47(a) to accept the filing of the attached Declaration and Power of Attorney document on behalf of JOHN DAVID PORTER, as he has refused to sign the application papers.

37 C.F.R. § 1.47(a) provides that "[i]f a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the non-signing inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(i) and the last known address of the non-signing inventor."

On June 12, 2000, Applicants filed the above-identified patent application in the U.S. Patent and Trademark Office without an oath/declaration or assignment. The Assignee through its attorneys have since asked Mr. Porter to review the application as filed and sign a Declaration and Power of Attorney. Mr. Porter refused to sign the Declaration for the reasons set forth in the accompanying "Declaration of Inventor," filed concurrently herewith.

The Assignee files this petition to have the Declaration signed by all other joint inventors accepted on behalf of inventor PORTER pursuant to M.P.E.P. §409.03(a). Accordingly, we authorize the PTO to charge our deposit account the additional \$130.00 fee required under 37 C.F.R. § 1.17(i). Mr. Porter's last know address is listed in his Declaration.

LAW OFFICES

FINNEGAN, HENDERSON,  
FARABOW, GARRETT  
& DUNNER, L.L.P.  
STANFORD RESEARCH PARK  
700 HANSEN WAY  
PALO ALTO, CALIF. 94304  
650-849-6600

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.



Dated: October 10, 2000

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Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

By: Linda J. Thayer  
Linda J. Thayer  
Reg. No. 45,681

LAW OFFICES

FINNEGAN, HENDERSON,  
FARABOW, GARRETT  
& DUNNER, L.L.P.  
STANFORD RESEARCH PARK  
700 HANSEN WAY  
PALO ALTO, CALIF. 94304  
650-849-6600

## FORMALITIES LETTER



\*OC00000005304217\*

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark OfficeAddress: COMMISSIONER OF PATENT AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/592,683	06/12/2000	John David Porter	07994.0011

Finnegan Henderson Farabow Garrett & Dunner LLP  
1300 I Street N W  
Washington, DC 20005-3315**RECEIVED**

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Date Mailed: 08/08/2000

**NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION**

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 130.

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*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

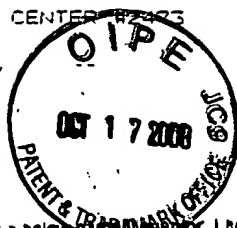
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

10/19/2000 EXAMMOND 00000011 060916 09592683

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## DECLARATION AND POWER OF ATTORNEY

Attorney Docket No. 07894.0011-00000  
Your Ref: ABCN/JW/19489

#5

As a below-named inventor, I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: Control Signalling and Dynamic Channel Allocation in a Wireless Network the specification of which ☐ is attached and/or ☒ was filed on June 12, 2000 as United States Application Serial No. 09/592,883.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate or § 365(a) of any PCT international application(s) designating at least one country other than the United States, listed below and have also identified below, any foreign application(s) for patent or inventor's certificate, or any PCT international application(s) having a filing date before that of the application(s) of which priority is claimed:

Country	Application Number	Date of Filing	Priority Claimed Under 35 U.S.C. 119
United Kingdom	9913597.0	June 13, 1999	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) or § 365(c) of any PCT international application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application(s) in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application:

Application Number	Date of Filing	Status (Patented, Pending, Abandoned)

I hereby appoint the following attorney and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., Douglas B. Henderson, Reg. No. 20,291; Ford F. Farabow, Jr., Reg. No. 20,630; Arthur S. Garrett, Reg. No. 20,338; Donald R. Dunner, Reg. No. 19,073; Brian G. Brunsford, Reg. No. 22,593; Tipton D. Jennings, IV, Reg. No. 20,645; Jerry D. Voight, Reg. No. 23,020; Lawrence R. Hefter, Reg. No. 20,827; Kenneth E. Payne, Reg. No. 23,088; Herbert H. Mintz, Reg. No. 26,891; C. Larry O'Rourke, Reg. No. 26,014; Albert J. Santorelli, Reg. No. 22,610; Michael C. Elmer, Reg. No. 25,857; Richard H. Smith, Reg. No. 20,808; Stephen L. Peterson, Reg. No. 26,325; John M. Romary, Reg. No. 28,331; Bruce C. Zoller, Reg. No. 27,880; Dennis P. O'Reilly, Reg. No. 27,932; Allen M. Sokol, Reg. No. 26,695; Robert D. Bajelsky, Reg. No. 25,387; Richard L. Group, Reg. No. 28,478; David W. Hill, Reg. No. 28,220; Thomas L. Irving, Reg. No. 28,819; Charles E. Lipsey, Reg. No. 28,185; Thomas W. Winland, Reg. No. 27,605; Basil J. Lewis, Reg. No. 28,818; Martin I. Fuchs, Reg. No. 28,508; E. Robert Yoches, Reg. No. 30,120; Barry W. Graham, Reg. No. 29,924; Susan Haberman Griffen, Reg. No. 30,807; Richard B. Racine, Reg. No. 30,415; Thomas H. Jenkins, Reg. No. 30,857; Robert E. Converse, Jr., Reg. No. 27,432; Clair X. Muller, Jr., Reg. No. 20,348; Christopher P. Foley, Reg. No. 31,354; John C. Paul, Reg. No. 30,413; Roger D. Taylor, Reg. No. 28,992; David M. Kelly, Reg. No. 30,553; Kenneth J. Meyers, Reg. No. 25,146; Carol P. Einavdi, Reg. No. 32,220; Walter Y. Boyd, Jr., Reg. No. 31,738; Steven M. Anzalone, Reg. No. 32,095; Jean B. Fordis, Reg. No. 32,984; Barbara C. McCurdy, Reg. No. 32,120; James K. Hammond, Reg. No. 31,984; Richard V. Burgulian, Reg. No. 31,744; J. Michael Jakes, Reg. No. 32,624; Thomas W. Banks, Reg. No. 32,719; Christopher P. Isaac, Reg. No. 32,618; Bryan C. Diner, Reg. No. 32,409; M. Paul Barker, Reg. No. 32,013; Andrew Chanhe Sonu, Reg. No. 33,457; David S. Forman, Reg. No. 33,694; Vincent P. Kovalick, Reg. No. 32,867; James W. Edmondson, Reg. No. 33,871; Michael R. McGurk, Reg. No. 32,045; Joann M. Nath, Reg. No. 38,383; Gerson S. Panitch, Reg. No. 33,751; Cheryl M. Taylor, Reg. No. 33,218; Charles E. Van Horn, Reg. No. 40,266; Linda A. Wadler, Reg. No. 33,218; Jeffrey A. Berkowitz, Reg. No. 36,743; Michael R. Kelly, Reg. No. 33,921; James B. Monroe, Reg. No. 33,871; Doris Johnson Hines, Reg. No. 34,629; Allen R. Jensen, Reg. No. 28,224; Lori Ann Johnson, Reg. No. 34,498; and David A. Manspeizer, Reg. No. 37,540 and Linda J. Thayer, Ref. No. 45,881. Please address all correspondence to FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., 1300 I Street, N.W., Washington, D.C. 20005. Telephone No. (202) 408-4000.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon. The undersigned inventors execute this Declaration on behalf of themselves and John David PORTER who has refused to sign this Declaration.

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Listing of Inventors Continued on Page 2 hereof. X Yes No

January 2000

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Listing of Inventors Continued From Page 2 hereof

**Best Available Copy**Attorney Docket No. 07994.0011-00000  
Your Ref: ABCN/JWH/9469

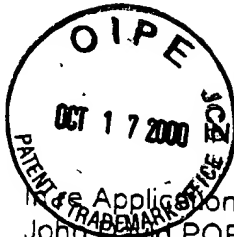
Full Name of First Inventor John David PORTER	Inventor's Signature	Date
Residence 108 Cambridge Road, Great Shelford, Cambridge, CB2 5JJ, United Kingdom		Citizenship UK
Post Office Address 109 Cambridge Road, Great Shelford, Cambridge, CB2 5JJ, United Kingdom		
Full Name of Second Inventor Walter Charles VESTER	Inventor's Signature <i>X Walter C. Vester</i>	Date <i>X 10/3/00</i>
Residence 2601 Pennsylvania Avenue, Apt 144, Philadelphia, PA 19130 USA		Citizenship U.S.
Post Office Address 2601 Pennsylvania Avenue, Apt 144, Philadelphia, PA 19130 USA		
Full Name of Third Inventor Benedict Russell FREEMAN	Inventor's Signature <i>X [Signature]</i>	Date <i>X 10/2/2000</i>
Residence 117 Cavendish Road, Cambridge, CB1 3AE, United Kingdom		Citizenship United Kingdom
Post Office Address 117 Cavendish Road, Cambridge, CB1 3AE, United Kingdom		
Full Name of Fourth Inventor	Inventor's Signature	Date
Residence		Citizenship
Post Office Address		
Full Name of Fifth Inventor	Inventor's Signature	Date
Residence		Citizenship
Post Office Address		
Full Name of Sixth Inventor	Inventor's Signature	Date
Residence		Citizenship
Post Office Address		
Full Name of Seventh Inventor	Inventor's Signature	Date
Residence		Citizenship
Post Office Address		
Full Name of Eighth Inventor	Inventor's Signature	Date
Residence		Citizenship
Post Office Address		

Listing of Inventors Continued on Page 2 hereof.

Yes No

January 2000

FINNEGAN, HENDERSON, FARABOW, GARRETT &amp; DUNNER, L.L.P.

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PATENT

Attorney Docket No. 07994.0011-00000

ABC/NJW/19469

## THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
John David PORTER et al. )  
Serial No.: 09/592,683 ) Group Art Unit: 2739  
Filed: June 12, 2000 ) Examiner: Unassigned  
For: CONTROL SIGNALLING AND )  
DYNAMIC CHANNEL )  
ALLOCATION IN A WIRELESS )  
NETWORK )

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OCT 20 2000

Assistant Commissioner for Patents  
Washington, DC 20231

OFFICE OF PETITIONS

Sir:

**DECLARATION OF INVENTOR**

I, John David Porter, hereby declare:

1. My residence is as stated below next to my name. I am a citizen of the United Kingdom.
2. I was employed by Adaptive Broadband Ltd. ("ABL") from 8/98 to 1/00. I understand that, pursuant to my contract of employment with Adaptive Broadband Ltd., all intellectual property rights in inventions that I created or developed in the course of my employment are the sole and absolute property of ABL. I further Acknowledge, (subject to a further agreement between, inter alia, myself, ABL and my new employer, dated the 5<sup>th</sup> January, 2000 which I am advised allows my new employer to refuse tasks for ABL which would compromise or conflict with its own intellectual property rights) that I have the continuing obligation to sign or execute any deeds or documents or do anything that ABL reasonably requires me to do to apply for, obtain, and vest in the name of ABL, or anyone they direct, any intellectual property rights in my inventions in any country.
3. I have been told that I am an original, first, and joint inventor of the invention entitled: Control Signalling and Dynamic Channel Allocation in a Wireless Network which is described and claimed in Serial No. 09/592,683 filed June 12, 2000 (hereafter "this Application"). I have been told by ABL and its attorneys that this Application claims priority to an earlier-filed foreign application, British Patent Application No. 9913697.0, filed June 11, 1999, in the United Kingdom, on which I am listed as a joint inventor with Walt Vester.
4. Since 1/00, I have been employed by Cambridge Broadband Ltd.,
5. Attorneys for ABL have requested that I review a copy of the 09/592,683 application as filed in the United States and sign a Declaration and Power of Attorney stating that I have "reviewed and understand the contents of the above-identified specification, including the claims, as amended." I have been told by ABL and its attorneys, however, that the present U.S. application has been filed listing three inventors: Walt Vester, Benedict Russell, and myself. I am concerned that the U.S. application may contain new material that was developed by ABL after I left the company, and therefore have been advised by my new employer's lawyers not to review the application as filed so that I will not have

PATENT

Attorney Docket No. 07994.0011-00000

ABC/NJW/19469


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access to any new material that may potentially prejudice my new employer. Since I have not reviewed the application as filed, I cannot sign the Declaration that was presented to me for signature.

6. I reserve the right to review the application when published and subsequently join in the application by filing another oath or declaration at a later date.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true but without my having made any investigation whatsoever; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

6/10/00  
Date

  
John David Porter  
109 Cambridge Road,  
Great Shelford,  
Cambridge CB2 5JJ  
United Kingdom